

## **ASSET PURCHASE AGREEMENT**

**ASSET PURCHASE AGREEMENT** (the “Agreement”) is made and entered into as of December 20, 2000 by and between Family Golf Centers, Inc., as a debtor and debtor-in-possession and each of its U.S. subsidiaries (collectively, “Seller”) and Schottenstein Bernstein Capital Group, LLC (“Buyer”), a Delaware limited liability corporation.

### **RECITALS**

A. Seller is a debtor-in-possession in a case (the “Case”) under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) pending in the United States Bankruptcy Court for the Southern District of New York (the “Court”), Case No. 00-41065 through 00-41196.

B. Seller continues to operate its business as a debtor-in-possession under Section 1108 of the Bankruptcy Code.

C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, all of the Acquired Assets (as defined below) pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing recitals and the covenants and agreements contained herein, the parties agree as follows:

#### **1. CERTAIN DEFINITIONS.**

“Acquired Assets” means, collectively, all of the Seller’s right, title, interest in and to (i) the Merchandise, (ii) all claims (including “claims” within the meaning of section 101(5) of the Bankruptcy Code), causes of action and choses in action, in each case, whether now existing or hereafter arising, now owned or hereafter acquired, contingent or otherwise, that in any way relate to the Merchandise and (iii) all proceeds of any kind of the foregoing.

“Aggregate Retail Value of the Merchandise” means the aggregate amount of the [financial] and “SKU” inventory retail value of the Merchandise as shall be as determined by the Inventory Agent. The retail value of any item of Merchandise shall be equal to the lower of (i) the lowest authorized price of such Merchandise offered by Seller to the public by any and all means during the period from November 15, 2000 through the Closing Date or (ii) the UPC or “scan” price for such Merchandise, except that the retail value of (a) Defective Merchandise shall be equal to such amount as mutually determined by Seller and Buyer and (b) Clearance Merchandise or Out-of-Season Merchandise shall be equal to the lower of (x) the lowest retail price for which such Clearance Merchandise or Out-of-Season Merchandise was offered to the public and (y) fifty (50%) percent of the original retail price of such Clearance Merchandise or Out-of-Season Merchandise.

“Clearance Merchandise” means Merchandise considered as “clearance” in accordance with Seller’s historic practices and policies.

“Closing” has the meaning set forth in Section 3 below.

“Closing Date” has the meaning set forth in Section 3 below.

“Conditions” has the meaning set forth in Section 5(a) below.

“Conveyance Instruments” has the meaning set forth in Section 4(a) below.

“Defective Merchandise” means any goods reasonably agreed upon by Seller and Buyer as defective, incomplete, mismatched or otherwise not salable in the ordinary course because they are ripped, torn, worn, soiled, missing parts, dented, scratched or contain other similar damaging characteristics.

“Due Diligence Fee” has the meaning set forth in Section 9 below.

“Encumbrance” means any liability, obligation, claim (including any “adverse claim” within the meaning of Article 8 of the Uniform Commercial Code) mortgage, easement, right of way, charge, debt, tax, equitable interest, lien, option, pledge, security interest, right of first refusal, preferential right to purchase, prior assignment, restriction or other encumbrance of any kind, including any restriction on use, transfer or exercise of any other attribute of ownership.

“Final Order” means an order of the Court which has not been reversed, stayed, modified, or amended and as to which the time to appeal, seek certiorari or move for reconsideration or rehearing has expired and no appeal, petition for certiorari or motion for reconsideration or rehearing has been timely filed.

“Inventory Agent” means RGIS or such other Person acceptable to both Seller and Buyer responsible for calculating the Aggregate Retail Value of the Merchandise.

“Material Adverse Change” means any material adverse change to the value of the Merchandise.

“Merchandise” means certain inventory of the Seller more particularly described in Schedule I to this Agreement, located in the Seller’s Stores and the Seller’s warehouse.

“Parties” mean collectively the Seller and the Buyer.

“Purchase Rate” means twenty-three percent (23%); provided, however, that if the Aggregate Retail Value of the Merchandise as of the Closing Date is less than \$6,000,000, such percentage shall be reduced by one-tenth of one percent (0.1%), on a pro-rata basis, for each \$50,000 that the Aggregate Retail Value of the Merchandise is below \$6,000,000. (i.e., If the Aggregate Retail Value of the Merchandise is \$75,000 less than \$6,000,000, the 23% is reduced by 0.15%.)

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature.

“Procedural Order” has the meaning set forth in section 8(a) below.

“Purchase Price” has the meaning set forth in Section 2(d) below.

“Sale Order” has the meaning set forth in Section 8(b) below.

“Stores” means the Seller’s thirty (30) retail store locations as listed on Exhibit A.

“Uniform Commercial Code” means the Uniform Commercial Code of the State of New York, as in effect.

## 2. SALE OF ACQUIRED ASSETS, PURCHASE PRICE.

(a) Transfer of Acquired Assets. Subject to and upon the terms and conditions of this Agreement, Seller shall sell, convey, transfer, assign and deliver to Buyer, and Buyer shall purchase from Seller, on the Closing Date (as hereinafter defined) the Acquired Assets, free and clear of any and all Encumbrances.

(b) Sale Free and Clear of Encumbrances. The Acquired Assets shall be conveyed to Buyer free and clear of any and all Encumbrances. The parties hereto acknowledge that Buyer is not and will not be a successor-in-interest to Seller and that Buyer will not assume, or be deemed to assume, any liability for or with respect to any Encumbrances of Seller whatsoever. Buyer will not be required to defend any suit or claim arising out of any act or omission of Seller.

(c) Purchase Price. The purchase price (the “Purchase Price”) for the Acquired Assets shall be equal to the product of the Purchase Rate and the Aggregate Retail Value of the Merchandise, which shall be paid to the Seller as follows: (i) seventy percent (70%) percent of the Purchase Price (the “Initial Payment”) on the business day following the entry of the Sales Order in immediately available funds by wire transfer to the Seller’s account set forth on the signature page hereto, based on the Seller’s retail book value of the Merchandise as of the Closing Date, subject to adjustment upon the Final Reconciliation (as defined in Section 4(b) below) and (ii) the balance of the Purchase Price in immediately available funds by wire transfer to the Seller’s account set forth on the signature page hereto no later than one (1) business day following the preparation and approval of a Final Reconciliation (as defined in Section 4(c) below) (hereinafter, the “Settlement Date”). In the event that it is determined, based on the Final Reconciliation that there is a balance due to the Buyer, Seller shall refund such overpayment in immediately available funds by wire transfer on the Settlement Date.

## 3. CLOSING.

The Closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of the [Buyer], or such other location as the Parties may agree and shall occur on the first business day following the date on which all Conditions herein shall have been satisfied or waived by the party or parties entitled to waive such Condition (the “Closing Date”).

4. OBLIGATIONS AT CLOSING; FURTHER ASSURANCES.

(a) Delivery of Instruments of Conveyance. At the Closing, Seller will deliver to Buyer:

(i) bills of sale and such other good and sufficient instruments of conveyance, assignment and transfer, in form and substance reasonably satisfactory to Buyer and its counsel, as shall be effective to vest in Buyer good and marketable title to the Acquired Assets and evidence same (collectively, the “Conveyance Instruments”); and

(ii) all other documents, instruments or agreements reasonably requested by Buyer to be delivered to Buyer by Seller pursuant to this Agreement.

(b) Further Assurances. At any time and from time to time on or after Closing, at Buyer’s request and without further consideration, Seller shall execute and deliver such other instruments of sale, transfer, conveyance, assignment and confirmation and take such other action as Buyer may reasonably deem necessary or desirable in order to transfer, convey and assign to Buyer, and to confirm Buyer’s title to, any Acquired Asset, to put Buyer in actual possession and operating control thereof and/or to assist Buyer in exercising all rights with respect thereto.

(c) Final Reconciliation Report. Within 5 business days of the Closing Date, subject to the completion of the physical inventory taking, Seller and Buyer shall use diligent and good faith efforts to prepare and approve of a written final reconciliation of the Merchandise (the “Final Reconciliation”).

5. CONDITIONS PRECEDENT TO CLOSING.

(a) Conditions to Obligations of Buyer. All obligations of Buyer hereunder are subject to the fulfillment at or prior to Closing of each of the following conditions (collectively, the “Conditions”) (except as waived or modified in writing by Buyer), and Seller shall exert its best efforts to cause each such Condition to be so fulfilled:

- (i) the Case shall not have been dismissed or converted to a liquidation proceeding (pursuant to chapter 7 of the Bankruptcy Code) nor shall a trustee or an examiner with expanded powers have been appointed for the Seller;
- (ii) The Procedural Order shall have been entered by the Court;
- (iii) the Sale Order shall have been entered by the Court and, as of the Closing Date, such Order shall have become a Final Order;
- (iv) at and as of the Closing Date, the representations and warranties set forth in Section 6 hereof shall be true and correct in all material respects and Seller shall have fully complied with and satisfied all covenants, agreements and obligations required by the terms of this Agreement to be performed by Seller;

- (v) no court or governmental authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, or judgment, decree, injunction or other order that is in effect on the Closing Date and prohibits the consummation of the Closing or imposes material limitations on Buyer's ownership of the Acquired Assets;
- (vi) Seller shall have delivered written notice to Buyer that each of the foregoing Conditions, has been satisfied.

(b) Conditions to Obligation of Seller. The obligation of the Seller to consummate the transactions to be performed by it in connection with the closing is subject to satisfaction of the following conditions (except as waived in writing by Seller):

- (i) the representation and warranties set forth in Section 7 below shall be true and correct in all material respects at and as of the Closing Date; and
- (ii) the Court shall have entered the Sale Order (with any modifications, additions or deletions agreed to by Buyer).
- (iii) The Seller shall have received the consent of the required lenders under the Revolving Credit and Guarantee Agreement, dated as of June 2, 2000.
- (iv) The Buyer shall have paid the Initial Payment to Seller

## 6. REPRESENTATIONS AND WARRANTIES BY SELLER.

Seller hereby represents and warrants to Buyer, as of the date hereof and as of the Closing Date, as follows:

(a) Organization and Standing; Qualification. Family Golf Centers, Inc. ("FGC") is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. FGC has all requisite corporate power and authority and is entitled to carry on its business as now being conducted and to own, lease or operate its properties as and in the places where its respective business is now conducted and such properties are now owned, leased or operated; and is duly qualified, licensed or domesticated and in good standing in the jurisdiction of its organization and as a foreign corporation authorized to do business in each of the jurisdictions in which it conducts business or owns, leases or operates any assets or property except where the failure to be so qualified would not have a Material Adverse Change.

(b) Execution, Delivery and Performance of Agreement; Authority; Consents and Approvals. Subject to the entry of the Sale Order, Seller has the full corporate power and authority to enter into this Agreement, to execute and deliver each of the Conveyance Instruments, and to carry out the transactions contemplated hereby and thereby. All proceedings required to be taken by Seller, its board of directors or its stockholders to authorize the execution, delivery and performance of this Agreement and the Conveyance Instruments have been properly taken and this Agreement constitutes and the Conveyance Instruments, when

executed and delivered pursuant hereto, will constitute, valid and binding obligations of Seller, enforceable against it in accordance with their terms.

(c) Brokers' Fees. Seller has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this agreement for which Buyer could become liable or obligated.

(d) Litigation. Other than the Case, there is no claim, legal action, suit, arbitration, governmental investigation or other legal or administrative proceeding, nor any order, decree or judgment in progress, pending or in effect, or to the knowledge of Seller threatened, against the Seller or that may otherwise cause a Material Adverse Change.

(e) Title to Acquired Assets. Seller has good title to the Acquired Assets and will transfer same to Buyer free and clear of any and all Encumbrances.

(f) The Merchandise. With respect to the Merchandise:

(i) No Merchandise tickets have been or will be marked up since November 1, 2000.

(ii) All ticketing, including ticketing of on-order Merchandise and Merchandise from the Seller's distribution center will be performed in accordance with the Seller's prior business practices taken in the ordinary course.

(iii) All ordinary course permanent markdowns have been or will be taken consistent with the Seller's prior business practices taken in the ordinary course.

(iv) Since November 1, 2000 there have been no movements of Merchandise to or from the Stores so as to alter inventory mix, quantities or categories of merchandise, except for such actions taken by Seller consistent with the Seller's prior business practices taken in the ordinary course and/or as disclosed by Seller and approved by Buyer in writing.

(v) No point of sale discounting of any Merchandise shall have occurred at the Stores since November 16, 2000.

(vi) The Seller's Stores have been operated in the ordinary course, in accordance with the Seller's ordinary business practices through the date of this Agreement.

(g) Information Provided to Buyer. All information regarding the Seller and the Merchandise provided to Buyer for the purpose of evaluating the Merchandise and the terms and conditions of this Agreement has been true, correct and complete in all material respects.

## 7. REPRESENTATIONS AND WARRANTIES BY BUYER.

Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows:

(a) Organization. Buyer is a limited liability corporation duly organized, validly existing and in good standing under the laws of Delaware and has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby and thereby.

(b) Power and Authorization to Enter this Agreement. Buyer has full corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby and thereby, all proceedings required to be taken by Buyer to authorize to execution, delivery and performance of this Agreement and, subject to the terms and conditions set forth herein, including, without limitation, the entry of the Sale Order, this Agreement constitutes a valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

(c) Noncontravention. Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any constitution, statute, regulation, rule, induction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court (including the Court) to which Buyer is subject or any provision of the charter or bylaws of Buyer or (ii) conflict with, result in a breach of constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Buyer is a party or by which it is bound or to which any of its assets is subject.

(d) Brokers' Fees. Buyer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated.

8. COVENANTS OF SELLER. Seller hereby covenants and agrees as follows:

(a) Procedural Order. Immediately after execution of this Agreement, the Seller shall file with the Bankruptcy Court a motion (along with applicable supporting papers and a proposed order) in form and substance satisfactory to Buyer seeking entry of the "Procedural Order" described below, and shall support and use its best efforts to effectuate the entry of such an Order that shall include, without limitation, the following provisions (except as waived in writing by Buyer):

- (i) the approval of the Due Diligence Fee and overbid requirements as set forth in Section 9 below; and
- (ii) the Seller's entry into this Agreement is authorized and binding, subject only to the approval of the Bankruptcy Court approving the sale to Buyer contemplated hereunder, which order shall be entered pursuant to notice and a hearing before the Court.

(b) Sale Order. Within 5 business days of the execution of this Agreement, Seller shall file with the Court a motion and supporting papers, in form and substance reasonably satisfactory to Buyer, and shall support and use its best efforts to effectuate the entry of an order, approving the transactions contemplated by this Agreement pursuant to Sections 363, 365, and

105 of the Bankruptcy Code (the “Sale Order”), which Sale Order shall be in form and substance satisfactory to Buyer in its sole discretion and shall provide, without limitation, that:

- (i) as of the Closing Date, the transactions contemplated by this Agreement will effect a legal, valid, enforceable and effective sale and transfer of each of the Acquired Assets to Buyer and shall vest Buyer with good title to the Acquired Assets free and clear of all Encumbrances;
- (ii) the transactions contemplated by this Agreement constitute reasonably equivalent value and fair consideration for the Acquired Assets being purchased;
- (iii) Buyer shall have no liability in respect to any claim, liability, obligation or Encumbrance of Seller;
- (iv) Buyer is a good faith purchaser of the Acquired Assets, as that term is used in Section 363(m) of the Bankruptcy Code; and
- (v) pursuant to Section 1146(c) of the Bankruptcy Code, no transfer fees or taxes are payable in connection with the consummation of the transactions contemplated by this Agreement;
- (vi) Buyer shall have free and unfettered access to Seller’s Stores and Warehouse to remove the Merchandise, provided, however, that such rights shall not render Buyer an “owner” or “operator” of the locations for any purpose; and
- (vii) shall provide for a due diligence fee and overbid requirements as set forth in Section 9 below.

(c) Procedures. In connection with obtaining the approval of the Court of the transactions contemplated by this Agreement, the Seller shall comply with all of the provisions and requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and all applicable local rules.

9. DUE DILIGENCE FEE; OVERBID REQUIREMENTS.

In the event Seller determines to present this Agreement as a “Stalking Horse” sale, subject to any third party’s competitive bid as a higher and better offer, at an auction or at the sale hearing and the Court approves any such third party’s competitive bid as a higher and better offer, then Seller agrees to pay Buyer a “Due-Diligence” fee in the amount of forty thousand dollars (\$40,000) (the “Due Diligence Fee”). Any such Due-Diligence or break-up fee approved by the Court shall be paid by Seller to Buyer within two (2) business days after Seller’s closing with the successful third party competing bidder. Seller further agrees any competing third party bid in any auction of the Merchandise must exceed the Purchase Rate by at least seven tenths of one percent (0.70%) higher than the Purchase Rate, with successive bids thereon to be in increments of one-tenth of one percent (0.10%) higher.



10. NO ASSUMPTION OF LIABILITIES.

Buyer shall not assume or be liable for any of the liabilities or obligations of Seller, of any kind or nature whether presently in existence or arising hereafter, whether related or unrelated to any of the Acquired Assets. It is expressly understood and agreed that the Parties intend that Buyer shall not be considered to be a successor to Seller by reason of any theory of law or equity.

11. TERMINATION.

(a) Termination of Agreement. This Agreement may be terminated as provided below:

(i) Buyer and Seller may terminate this Agreement by mutual written consent at any time prior to the Closing;

(ii) A Material Adverse Change shall have occurred;

(iii) Buyer may terminate this Agreement by giving written notice to Seller at any time prior to Closing if: (A) the Seller has breached any representation, warranty, or covenant contained in this Agreement, and, to the extent such breach is capable of being cured, Seller has not cured such breach within 5 business days of such termination notice, provided, that, in the event of a breach of any of the representations and warranties listed in Section 6(f) herein, the parties agree to negotiate, in good faith, an appropriate reduction of the Purchase Price prior to termination; (B) the Court, at any time, declines to enter the Procedures Order or the Sale Order or otherwise disapproves the transactions contemplated hereunder, or (C) the Closing shall not have occurred on or prior to 4:30 p.m. (New York time) on January 31, 2001 (unless such failure results solely from a breach of this Agreement by Buyer). In the event of a termination pursuant to this section (iii), Buyer shall be entitled to the Due Diligence Fee set forth in Section 9 herein; or

(iv) Seller may terminate this Agreement at any time prior to Closing if: (A) on the date of such termination, Buyer has materially breached this Agreement (and, to the extent such breach is capable of being cured, Buyer has not cured such default with five (5) business days of such default) and Seller has not breached this Agreement, or (B) the Closing shall not have occurred on or prior to January 31, 2001 (unless such failure results solely from a breach of this Agreement by Seller).

(b) Effect of Termination. In the event of the termination of this Agreement in accordance with this Section 11, this Agreement shall thereafter become void and have no effect, and no party hereto shall have any liability to the other party hereto or their respective affiliates, directors, officers or employees.

12. INDEMNIFICATION.

(a) Seller agrees to indemnify, defend and hold each of Buyer and its officers, directors, employees, agents, partners and controlling persons (collectively, the “Buyer Indemnitees”) harmless from and against any and all expenses, losses, claims, damages and liabilities which are incurred by or threatened against the Buyer Indemnitees or any of them, including without limitation reasonable attorneys’ fees and expenses, caused by, or in any way resulting from or relating to Seller’s breach of any of the representations, warranties, covenants or agreements of Seller set forth in this Agreement.

(b) Buyer agrees to indemnify, defend and hold each of Seller and its officers, directors, employees, agents, partners and controlling persons (collectively, the “Seller Indemnitees”) harmless from and against any and all expenses, losses, claims, damages and liabilities which are incurred by or threatened against the Seller Indemnitees or any of them, including without limitation reasonable attorneys’ fees and expenses, caused by, or in any way resulting from or relating to Buyer’s breach of any of the representations, warranties, covenants or agreement of Buyer set forth in this Agreement.

13. MISCELLANEOUS.

(a) No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

(b) Entire Agreement; Binding Effect, etc.. This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they have related in any way to the subject matter hereof. The terms of this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. All representations and warranties made herein shall survive the execution and delivery of this Agreement.

(c) Succession and Assignment. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party; provided, however, that Buyer may (i) assign any or all of its rights and interests hereunder to any Person affiliated with Buyer or to any lender providing financing to Buyer, and (ii) designate an entity affiliated with Buyer to perform its obligations hereunder (in any or all of which cases Buyer nonetheless shall remain responsible for, and guarantees, the performance of all of its obligations hereunder).

(d) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

(e) Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(f) Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given if it is sent by registered or certified mail, return receipt requested, postage prepaid (and then three business days after), and addressed to the intended recipient as set forth below.

If to Seller:

Family Golf Centers, Inc.  
538 Broad Hollow Road – Suite 410E  
Melville, NY 11747  
Attn: Pamela S. Charles  
Tel: (631) 694-1666  
Fax: (631) 694-1935

with copies to:

Fried Frank Harris Shriver & Jacobson  
One New York Plaza  
New York, New York 10004-1980  
Attention: Gerald Bender, Esq.  
Tel: (212) 859-8232  
Fax: (212) 859-4000

If to Buyer:

Schottenstein Bernstein Capital Group, LLC  
1010 Northern Blvd., Suite 340  
Great Neck, New York 11021  
Attn: Mr. Scott Bernstein  
Tel: (516) 829-2400  
Fax: (516) 829-2404

with copies to:

Kramer Levin Naftalis & Frankel LLP  
919 Third Avenue  
New York, New York 10022  
Attention: Jack A. Hazan, Esq.  
Tel: (212) 715-9311  
Fax: (212) 715-8000

Any Party may send any notice, request, demand, claim, or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier messenger service, telecopy, telex, ordinary mail, or electronic mail), but not such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may

change the address to which notice, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of New York without giving effect to any choice or conflict of laws provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

(h) Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same be in writing and signed by the Parties. No waiver by any Party or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional, or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any right arising by virtue of any prior or subsequent such occurrence.

(i) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

(j) Expenses. Each of Seller and Buyer agrees to pay fifty percent (50%) of the costs and expenses of the Inventory Agent. Buyer and Seller will each bear its own costs and expenses (including legal fees and expenses) incurred in connection with its Agreement and the transactions contemplated hereby, including, without limitation, the costs of its own representatives attending to Merchandise. Buyer agrees to reimburse Seller for the actual hourly cost of Seller's employees used by Buyer to assist in the transfer of Merchandise.

(k) Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

(l) Incorporation of Schedules. The schedules identified in this Agreement are incorporated herein by reference and made a party hereof.

(m) Specific Performance. Each of the Parties acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, Seller agrees that Buyer shall be entitled to any injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof.

*[signatures follow on next page]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

FAMILY GOLF CENTERS, INC., as Seller

By: /s/ Phillip J. Gund  
Name: Philip J. Gund  
Title: Chief Executive Officer

Seller's Wire Instructions:

[TO BE PROVIDED]

SCHOTTENSTEIN BERNSTEIN CAPITAL  
GROUP, LLC, as Buyer

By: /s/ Thomas Mitchell  
Name: Thomas Mitchell  
Title: V.P. Finance and Operations

## SCHEDULE I

### Description of Merchandise

355768

FAMILY GOLF CENTERS INC  
13 REPORT-1P622P

REPORT OBSERVATIONS - INVENTORY IN UNITS MO  
PRO GROUP BY CLASS  
BASE DATE: 12/15/00

12/15/00 PAGE 1  
13:00:44 RICKS

For Selected Detail Only	INVENTORY COST MO	INVENTORY MONTHLY	SALES AT RETAIL MO	SALES AT RTL MO &	SALES AT RETAIL YR	SALES AT RTL YR &	INVENTORY UNIT NO	SALES IN UNITS MO	SALES IN UNITS YR	MTD GM	YTD GM	COM ETC/BIR	INV. RETAIL	GP\$ AVG YTD	SALES PRICE
STORE GROUP PRO PRODUCT SALES	1931700	100.00	44162	100.00	3160114	100.00	124577	2206	159784	19.81	25.21	44.53	3482214	796810	19.78
1001 MEN'S GLOVES	121291	6.28	3669	8.31	262480	8.31	31478	537	30953	43.50	49.64	60.92	310366	130300	8.48
1002 MEN'S GOLF BAGS	92104	4.77	2651	6.00	153957	4.87	1614	41	2193	22.82	29.69	37.79	148065	45703	70.20
1003 MEN'S GOLF BALLS	149023	7.71	5558	12.59	373103	11.81	10693	364	27178	13.16	20.30	23.11	193801	75731	13.63
1004 MEN'S IRON SETS	156365	18.45	4209	9.53	443058	14.02	1495	19	1370	7.02	15.31	19.59	589918	67821	323.40
1005 MEN'S WOOD SETS	19465	1.01	433	0.98	14125	0.45	230	5	153	-3.24	-4.41	50.32	39178	-623	92.32
1006 MEN'S WOODS	429866	22.25	5530	12.52	610453	19.31	6254	69	6870	-0.05	7.66	44.39	773064	46768	88.86
1007 MEN'S UTILITY CLUBS	11474	0.59	533	1.21	60267	1.91	343	16	2522	24.21	72.28	46.98	21640	43559	23.90
1008 MEN'S PUTTERS	86616	4.48	2249	5.09	133723	4.23	2385	55	2740	16.12	27.19	37.47	118529	16358	48.80
1009 MEN'S WEDGES	70907	3.67	1753	3.97	102668	3.25	2121	36	1929	21.75	27.98	45.11	129176	28726	53.22
1010 MEN'S COMBO SETS	32843	1.70	455	1.03	55584	1.76	340	4	364	26.75	36.24	51.86	68222	20144	152.70
1101 WOMEN'S GLOVES	39808	2.06	416	0.94	50123	1.59	9732	68	5991	28.92	51.58	54.30	87101	25852	8.37
1102 WOMEN'S GOLF BAGS	13280	0.69	250	0.57	12824	0.41	249	5	172	-13.62	27.98	26.14	17981	3588	74.56
1103 WOMEN'S GOLF BALLS	1681	0.09	148	0.33	4603	0.15	135	10	280	12.74	24.30	28.26	2343	1119	16.44
1104 WOMEN'S IRON SETS	47575	2.46	855	1.94	56443	1.79	315	6	237	13.74	24.90	50.75	96607	14054	238.16
1105 WOMEN'S WOOD SETS	17584	0.91	145	0.33	10852	0.34	224	2	96	-12.06	28.55	58.44	42308	1099	113.05
1106 WOMEN'S WOODS	42580	2.20	915	2.07	44670	1.41	779	13	587	-1.20	0.46	48.57	82785	206	76.10
1107 WOMEN'S UTILITY CLUBS	256	0.01	0	0.00	660	0.02	27	0	12	0.00	26.02	65.81	750	172	55.00
1108 WOMEN'S PUTTERS	1550	0.08	50	0.11	5333	0.17	103	2	194	52.08	46.46	51.82	3216	2478	27.49
1109 WOMEN'S WEDGES	391	0.02	0	0.00	932	0.03	14	0	23	0.00	39.31	47.18	740	366	40.51
1110 WOMEN'S COMBO SETS	26832	1.39	1275	2.89	35534	1.12	240	5	192	46.19	39.98	52.92	56998	14207	185.07
1201 JUNIOR GOLF HARD GOODS	0	0.00	0	0.00	343	0.01	0	0	37	0.00	28.19	0.00	0	97	9.26
1202 JUNIOR GOLF BAGS	2175	0.11	20	0.05	4246	0.13	90	1	110	-5.05	36.10	47.91	4175	1533	38.60
1204 JUNIOR CLUBS	20852	1.08	1375	3.11	41286	1.31	667	18	784	24.86	31.93	46.84	39228	13181	52.66
1301 TRAVEL COVERS AND BAGS	7583	0.39	520	1.18	9788	0.31	333	8	196	49.67	40.72	50.99	15472	1986	49.94
1303 PROSHP ACC. GRIPS/SHAFTS	112341	5.82	3884	8.80	249267	7.89	43470	618	54745	51.75	51.78	53.08	239456	129062	4.55
1501 MEN'S SHIRTS	34144	1.77	2114	4.79	94175	2.98	2707	106	5677	19.64	33.80	52.48	71854	31828	16.59
1502 MEN'S SWEATERS	871	0.05	24	0.05	2099	0.07	47	1	112	0.00	-21.67	25.37	1160	-455	18.74
1503 MEN'S SHORTS/PANTS	6375	0.33	60	0.14	14506	0.46	587	3	815	14.02	28.25	45.90	11785	4098	17.80
1504 MEN'S JACKETS/OUTERWEAR	25420	1.32	1147	2.60	40299	1.28	796	41	1132	14.64	31.53	50.12	50961	12705	35.60
1505 MEN'S SOX	3348	0.17	102	0.23	5747	0.18	1067	20	1108	37.43	39.16	46.04	6204	2250	5.19
1506 MEN'S SHOES	110770	5.73	2369	5.36	173292	5.48	2805	48	4687	19.58	14.18	33.06	165488	24540	36.97
1507 MEN'S HEADWEAR	20684	1.07	753	1.71	36652	1.16	2312	62	3189	22.10	25.48	41.83	35558	9339	11.49
1601 WOMEN'S SHIRTS	2071	0.11	69	0.16	15204	0.48	84	5	1083	-33.98	33.38	26.08	2802	5075	14.04
1602 WOMEN'S SWEATERS	761	0.04	15	0.03	1361	0.04	25	1	68	-83.39	-30.68	-8.31	703	-418	20.02
1603 WOMEN'S SHORTS/PANTS	3046	0.16	12	0.03	9671	0.31	116	1	424	-82.08	-21.64	29.58	4326	-2092	22.81
1604 WOMEN'S JACKETS/OUTERWEAR	3166	0.16	350	0.79	6041	0.19	74	8	184	-12.72	12.60	32.40	4683	761	32.83
1605 WOMEN'S SOCKS	208	0.01	0	0.00	731	0.02	90	0	295	0.00	7.27	43.68	369	53	2.48
1606 WOMEN'S SHOES	15201	0.79	242	0.55	20741	0.66	365	6	470	-17.16	3.41	33.88	22990	708	44.13
1607 WOMEN'S HEADWEAR	582	0.05	13	0.03	2862	0.09	152	2	376	-24.19	28.75	44.09	1756	823	7.61
1701 JUNIOR SHIRTS	124	0.01	0	0.00	159	0.01	7	0	8	0.00	14.05	53.99	270	22	19.90
1702 JUNIOR T-SHIRTS	86	0.00	0	0.00	121	0.00	12	0	17	0.00	-0.62	51.97	180	-1	7.14
1703 JUNIOR HEADWEAR	0	0.00	0	0.00	130	0.00	0	0	11	0.00	35.19	0.00	0	46	11.85

<End of report>

REPORT OBSERVATIONS

**CONFIDENCE INVENTORY**

<b>Product</b>	<b>Qty</b>	<b>Cost</b>	<b>Retail</b>
<b>Gloves</b>	5900 Dz.	198,500.00	505,340.00
<b>Bags</b>	14,223	442,417.00	1,211,800.00
<b>Vectra Balls</b>	8,239	43,117.00	82,390.00
<b>Headcovers</b>	3,052	23,994.00	69,565.00
<b>Vectra Shoes</b>	297	4,004.00	2,700.00
<b>Shirts</b>	1,982	11,550.00	17,420.00
<b>Iron Sets 3-PW + 4-SW</b>	1,160	107,592.00	351,606.00
<b>Open Stock Woods</b>	2,597	118,810.00	298,400.00
<b>Wood Sets</b>	179		
<b>Putters</b>	584	5,516.00	15,800.00
<b>Total</b>		<b>955,500</b>	<b>2,555,021</b>
<b>Inv Returns</b>			40,940.00
<b>Inferno HS 3-PW Stl</b>	280	250	70,000.00
<b>TP Wedges</b>	1218	25	30,450.00
<b>Turbo Power 3-PW Stl</b>	96	150	14,400.00
<b>Vectra V2 3-PW Stl</b>	468	200	93,600.00
<b>Total</b>			<b>249,390.00</b>
<b>Grand Total</b>			<b>2,804,411.00</b>